



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-923]

Certain Loom Kits for Creating Linked Articles

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to amend the notice of investigation to reflect a change in corporate form by the complainant, to terminate the investigation with respect to claims 2 and 3 of U.S. Patent No. 8,485,565 (“the ’565 patent”), and to enter a general exclusion order barring entry of loom kits that infringe claim 4 of the ’565 patent. The Commission’s determination is final and the investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2661. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 6, 2014, based on a complaint filed by Choon’s Design, Inc., of Wixom, Michigan, now Choon’s Design LLC (“Choon’s”). *See* 79 *Fed. Reg.* 45844-45 (August 6, 2014). The complaint alleged violations of section 337 by reason of the importation into the United States, the sale for importation, and the sale within the United States after importation of certain loom kits that infringe the ’565 patent. The notice of investigation named thirteen respondents, all of which either have been found in default or have been terminated from this investigation. *See* Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation as to Respondent Creative Kidstuff, LLC (September 26, 2014); Notice of Commission Determination Not to Review Two Initial Determinations Finding Certain Respondents in Default and Terminating the Investigation with Respect to Another Respondent (January 9, 2015); Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation as to Respondent Altatac, Inc. (January 13, 2015). The respondents in default are Island in the Sun LLC; Quality Innovations Inc.; Yiwu Mengwang Craft & Art Factory; Shenzhen Xuncent Technology Co., Ltd.; My Imports USA LLC; Jayfinn LLC; Hongkong Haoguan Plastic Hardware Co., Ltd.; Blinker.com, LLC; Eyyup Arga; and Itcoolnomore (collectively, “defaulting respondents”).

On February 3, 2015, the presiding administrative law judge (“ALJ”) issued an ID finding a violation of section 337 and recommending the issuance of a general exclusion order. *See* Order No. 13. On February 13, 2015, the IA submitted a petition for review of the ID in part. On March 20, 2015, the Commission determined to review only the domestic industry economic prong determination in the ID. Upon review, the Commission determined to affirm

the ALJ's finding that Choon's has shown a substantial investment in the exploitation of the '565 patent through engineering and research and development of articles protected by the '565 patent, but the Commission determined to modify certain portions of the ID regarding the expenditures comprising the domestic industry investments. The Commission stated that its modifications would be specified in a later Commission opinion. Having affirmed a violation of section 337, the Commission requested briefing concerning remedy, the public interest, and bonding. *See* 80 *Fed. Reg.* 16023-25 (March 26, 2015).

In response to the Commission's notice, Choon's informed the Commission that it changed its corporate form during the course of the investigation from Choon's Design, Inc., to Choon's Design LLC. Choon's also requested that claims 2 and 3 of the '565 patent be withdrawn from the investigation. No contrary submissions were received on those points. Accordingly, the Commission has determined to amend the notice of investigation to reflect that the complainant is Choon's Design LLC. The Commission has further determined to terminate the investigation with respect to claims 2 and 3.

Upon review of all submissions in response to the Commission's notice, and the entire record of the investigation, the Commission has determined that the appropriate form of relief for the determined violation of section 337 is a general exclusion order barring entry of loom kits that infringe claim 4 of the '565 patent. The Commission has further determined that the public interest factors enumerated in section 337(d)(1) (19 U.S.C. § 1337(d)(1)) do not preclude issuance of the general exclusion order. Additionally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value of subject articles is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission has also issued an opinion

explaining its modification of the ALJ's domestic industry economic prong analysis and explaining the basis for the remedy. The Commission's determination is final and the investigation is terminated in its entirety.

The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the orders.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

Lisa R. Barton
Secretary to the Commission

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